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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/532,008

11/14/2005

Rene Bemmer

102132-26

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27388 7590 07/01/2009
NORRIS, MCLAUGHLIN & MARCUS
875 THIRD AVE
18TH FLOOR
NEW YORK, NY 10022

EXAMINER

PHUONG, DAI

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

07/01/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/532,008 | Applicant(s) BEMMER ET AL. | |
| | Examiner DAI A. PHUONG | Art Unit 2617 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04/02/2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Argument

1. Applicant's arguments filed 04/02/2009 have been fully considered but they are not persuasive. Claims 21-36 are currently pending and claim 37 has been added. Please explanation below.

Applicant, on pages 8-9 of the remark, argues Carter et al. fails to disclose or suggest a distribution class in which all peripheral devices within the specified geographical region receives the message globally, rather only a single intended recipient to which the message has been specifically addressed. Not only does Carter et al. fail to disclose any distribution class, claim 21 is further distinguishable in that it expressly calls for three different distribution classes to include "'local', 'walking distance' and 'city wide', whereby the distribution class 'local' covers approximately the size of a radio cell and/or the neighboring cells, the distribution class 'walking distance' covers the region within a walking distance, and the distribution class 'city wide' covers a region within the borders of a city." The Examiner asserts that range button 430 reads on the claimed "local" distribution class [0042]. The "local" distribution class is distinguishable from range button 430 in **Carter et al. since there is no mention that its region is equated in any way with and covers approximately the size of a radio cell and/or the neighboring cells, as found in claim 21.** Furthermore, **Carter et al. fails to disclose or suggest the other two specified distribution classes ("walking distance" and "city wide") defining a region.** It is the Examiner's opinion that these classes are taught by Carter et al. [0046] and [0053]. Paragraph [0046] of **Carter et al. teaches that the single intended recipient of the message may be designated by pointing to a single coordinate on a geographical map** (not a region

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encompassing multiple coordinates) rather than entering an e-mail address or street address of the intended recipient. Since only a single coordinate rather than a region encompassing multiple coordinates is selected from the map there is no distribution class to all devices within a region, instead only transmission of a message to a single specified recipient. However, the Examiner respectfully disagrees.

The claim recites that the message is being distributed is specified by different distribution classes including the classes "local", "walking distance" and "city wide", whereby *the distribution class "local" covers approximately the size of a radio cell* and / or the neighboring cells. In other words, *the size of the radio cell* covers all of three classes, e.g., local, walking distance and city wide. Note: the claims does not describer how big the size of the radio cell is or the message is just distributed in one of the three classes. On the other hand, Carter discloses in paragraph 42 and 43 that the sender can set a range by selecting range button 430 for distributing messages or advertisement to a number of recipients and the recipients will receive the message or advertisements when the recipient are within range. For example, the sender sets the range is 3 miles for distributing the messages or advertisement, so that the range is equal to *the size of the radio cell* which covers all of three classes, e.g., local, walking distance and city wide.

Applicant, on page 9 of the remark, argues that Carter et al. fails to disclose or suggest distribution of messages to all subscribers within a prescribed geographical region. To the contrary, only a single intended recipient is specified and receives the transmitted message. The range button 430 merely prevents receipt by the intended recipient of a message to whom it was

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specifically addressed if the intended recipient is not within the specified geographical range. However, the Examiner respectfully disagrees.

Carter discloses in paragraph 43 that the sender can send advertisement or product promotions to a number of recipients.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 21-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Carter et al. (Pub. No.: 20040054732).

Regarding claims 21 and 37, Carter et al. disclose in Figure. 1, paragraph 9 and paragraph 25 to paragraph 26 an internet protocol based multimedia system using means for location information and media components during information (7) exchange between a communication center (3) and peripheral units (1, 4), wherein the means for location information and the media components are provided by at least a mobile communications network (2.), and the communication center (3) providing a transmission of messages (7) via a mobile community service,

wherein the region in which the message (7) is being distributed is specified by different distribution classes ([0037]-[0038] and [0042]. The sender may specify how far away from the location a recipient may in order to retrieve an e-mail message), including the classes "local" ([0042]. Carter et al. disclose that the recipient will receive his/her e-mail message based upon location information which is set by the sender), "walking distance" and "city wide" ([0039], [0046] and 0053]), whereby the distribution class "local" covers approximately the size of a radio cell and / or the neighboring cells ([0042]. The user may specify how far away from the location a recipient may be in order to retrieve the e-mail message), the distribution class "walking distance" covers the region within a walking distance, and the distribution class "city wide" covers a region within the borders of a city ([0039], [0046] and 0053]. The recipient will receive an e-mail message from a parking lot).

Regarding claim 22, Carter et al. disclose all limitations in claim 21. Further, Carter et al. disclose the internet protocol based multimedia system wherein the information (7) includes at least one of a text message, a voice messages, a picture message or a video message, or a combination thereof ([0037]. The recipient will receive an e-mail message based on his/her location information).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 23-27 and 32-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carter et al. (Pub. No.: 20040054732) in view of Grube et al. (Pub. No.: 20030100326).

Regarding claim 23, Carter et al. disclose all limitations in claim 21. Further, Carter et al. disclose a process for information exchange using components of an Internet protocol based multimedia system according to claim 21, the process comprising the steps of providing the information exchange including a transmission of messages (7) via a mobile community service ([0009] and [0025] to [0026]), wherein the region in which the message (7) is to be distributed is specified by different distribution classes, including the classes "local" ([0042], "walking distance" and "city wide" ([0039], [0046] and 0053]), whereby the distribution class "local" covers approximately the size of a radio cell and/or the neighboring cells ([0042]. The user may specify how far away from the location a recipient may be in order to retrieve the e-mail message), the distribution class "walking distance" covers, the region within a walking distance, and the distribution class, "city wide" covers a region in the borders of a city ([0039], [0046] and 0053]).

However, Carter et al. do not disclose allowing the subscriber to send contact data from his mobile handset. (1) to mobile handsets (4) of other users and vice versa, wherein the messages of a chosen media type are to be sent within a certain range around the subscribers current location or a set of chosen media types are to be received from other users within a certain range.

In the same field of endeavor, Grube et al. disclose allowing the subscriber to send contact data from his mobile handset. (1) to mobile handsets (4) of other users and vice versa,

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wherein the messages of a chosen media type are to be sent within a certain range around the subscribers current location or a set of chosen media types are to be received from other users within a certain range ([0032] to [0036]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Carter et al. by specifically including allowing the subscriber to send contact data from his mobile handset. (1) to mobile handsets (4) of other users and vice versa, wherein the messages of a chosen media type are to be sent within a certain range around the subscribers current location or a set of chosen media types are to be received from other users within a certain range, as taught by Grube et al., the motivation being in order to participate and monitor an event within a particular location.

Regarding claim 24, the combination of Carter et al. and Grube et al. disclose all limitations in claim 23. Further, Grube et al. disclose the process wherein an application menu is operated in the terminal devices (1, 4) of users of the mobile communication network (2) for gaining access to the mobile community service ([0032] to [0036]).

Regarding claim 25, the combination of Carter et al. and Grube et al. disclose all limitations in claim 23. Further, Grube et al. disclose the process wherein the mobile community service comprises an active mode and wherein the subscriber becomes active and sends messages (7) to mobile devices (4) of other users, and wherein the mobile community service comprises an inactive mode in which the subscriber receives other community members messages only ([0049] to [0068]).

Regarding claim 26, the combination of Carter et al. and Grube et al. disclose all limitations in claim 25. Further, Grube et al. disclose the process wherein in both modes the preferred name and media type of the messages (7) is specified ([0049] to [0068]).

Regarding claim 27, the combination of Carter et al. and Grube et al. disclose all limitations in claim 25. Further, Carter et al. disclose the process wherein in the active mode the user specifies the media type and the special content of the message to be sent to other users ([0037]).

Regarding claim 32, the combination of Carter et al. and Grube et al. disclose all limitations in claim 23. Further, Carter et al. disclose the process wherein web access to the Internet (5) is provided to all the users ([0025] to [0026]).

Regarding claim 33, the combination of Carter et al. and Grube et al. disclose all limitations in claim 23. Further, Carter et al. disclose the process wherein the users create content at a personal computer (6) and store the content for later selection via the mobiles menu, and wherein the pre-recorded content is displayed automatically when the mobile terminal community service module is activated ([0037] to [0043]).

Regarding claim 34, the combination of Carter et al. and Grube et al. disclose all limitations in claim 23. Further, Carter et al. disclose the process wherein the user specifies the region in which messages (7) can be sent and/or received ([0037] to [0043]).

Regarding claim 35, the combination of Carter et al. and Grube et al. disclose all limitations in claim 23. Further, Carter et al. disclose the process wherein the messages (7) are differentiated according to contact aims ([0037] to [0043]).

Regarding claim 36, the combination of Carter et al. and Grube et al. disclose all limitations in claim 23. Further, Carter et al. disclose the process wherein the messages (7) include details of personal interests ([0037] to [0043]).

6. Claims 28-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carter et al. (Pub. No.: 20040054732) in view of Grube et al. (Pub. No.: 20030100326) and further in view of Wu et al. (Pub. No.: 20040203946).

Regarding claim 28, the combination of Carter et al. and Grube et al. disclose all limitations in claim 23. However, the combination of Carter et al. and Grube et al. do not disclose the process wherein the messages are recorded directly by using the user's mobile terminal capabilities.

In an analogous art, Wu et al. disclose the process wherein the messages are recorded directly by using the user's mobile terminal capabilities ([0004] and [0012] to [0013]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Carter et al. by specifically including disclose the process wherein the messages are recorded directly by using the user's mobile terminal capabilities, as taught by Wu et al., the motivation being in order to transmit a calendar message from a mobile station to all members of the group.

Regarding claim 29, the combination of Carter et al. and Grube et al. disclose all limitations in claim 23. However, the combination of Carter et al. and Grube et al. do not disclose the process wherein the messages are chosen from a set of pre-recorded contents.

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In an analogous art, Wu et al. disclose the process wherein the messages are chosen from a set of pre-recorded contents ([0004] and [0012] to [0013]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Carter et al. by specifically including the messages are chosen from a set of pre-recorded contents, as taught by Wu et al., the motivation being in order to transmit a calendar message from a mobile station to all members of the group.

Regarding claim 30, the combination of Carter et al. and Grube et al. and Wu et al. disclose all limitations in claim 29. Furthermore, Carter et al. discloses the process wherein the contents are predefined and stored under a personal account via a web interface ([0037]).

Regarding claim 31, the combination of Carter et al. and Grube et al. and Wu et al. disclose all limitations in claim 29. Furthermore, Carter et al. discloses the process wherein the stored y contents are offered on a selection menu automatically to the subscriber if the active mode is selected ([0038]).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dai A Phuong whose telephone number is 571-272-7896. The examiner can normally be reached on Monday to Friday, 9:00 A.M. to 5:00 P.M..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Edouard can be reached on 571-272-7603. The fax phone number for the organization where this application or proceeding is assigned is 571-273-7687.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Dai A Phuong/
Examiner, Art Unit 2617
Date: 06/30/2009

/Patrick N. Edouard/
Supervisory Patent Examiner, Art Unit 2617